REMARKS

The Examiner rejected claims 1-29. Claims 2, 13, and 28 have been canceled herein, and claims 1, 3, 6, 11, 12, 18, 19, 21, 26, and 29 have been amended. Thus, claims 1, 3-12, 14-27, and 29 remain pending. Attached is a marked-up version of the changes being made by the current amendments. Reconsideration of the pending claims is respectfully requested.

Information Disclosure Statement

Applicants respectfully request return of an initialed copy of the PTO-1449 form filed October 23, 2001. For the Examiner's convenience, a copy of the PTO-1449 form filed October 23, 2001 is attached hereto.

Attorney Docket Number

Applicants respectfully request the Examiner to note the change of the attorney docket number from 07039-296001 to 14256-002001.

Claim Objections

Claim 28 was objected to under 37 CFR § 1.75(c) as being in improper form. Claim 28 has been canceled herein without prejudice. Thus, this objection is moot.

The 35 U.S.C. § 112 Rejections

Claims 6-9, 19, 20, and 21-29 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 6-9, 19, and 20, the Examiner stated that the word "proximity" renders the claims indefinite. In addition, regarding claims 21-29, the Examiner stated that the phrase "in communication with" renders the claims indefinite. Lastly, regarding claims 26 and 29, the Examiner stated that the limitation "said syringe and conduit tubing" lacks antecedent basis.

Claim 6 has been amended to remove the word "proximity" and to recite that the "delivery device comprises a lumen defining an opening such that fluid exiting said opening comes in contact with said contact surface." Support for this amendment can be found, for

example, on page 12, lines 25-28 of the specification. In addition, claim 21 has been amended to remove the phrase "in communication with." Further, claim 26 has been amended to depend from claim 25 so that the term "said syringe and conduit tubing" as used in claim 26 has proper antecedent basis. Lastly, claim 29 has been re-written in independent form.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 6-9, 19, 20, and 21-29 under 35 U.S.C. §112, second paragraph.

The 35 U.S.C. § 102 Rejections

Claims 1, 5, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tang et al. (WO 99/08713).

Applicants respectfully disagree. To further prosecution, however, claim 1 has been amended to recite the limitations of claim 2. According to the Examiner, claim 2 is free of the prior art. Claims 5 and 10 depend from presently amended claim 1 and, consequently, are free of the prior art.

In view of the above, Applicants respectfully request withdrawal of the rejection of claims 1, 5, and 10 under 35 U.S.C. § 102(b).

The Examiner also rejected claims 4, 6, 11, 14, 17, 19, and 20 under 35 U.S.C. § 102(b) as being anticipated by Hoffman (US 5,318,514).

Applicants respectfully disagree. Claim 1, from which claims 4 and 6 depend, has been amended herein to be free of the prior art. Thus, dependent claims 4 and 6 are free of the prior art. In addition, claim 11 has been amended to recite the limitations of original claim 13. According to the Examiner, claim 13 is free of the prior art. Claims 14, 17, 19, and 20 depend from presently amended claim 11 and, consequently, are free of the prior art.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 4, 6, 11, 14, 17, 19, and 20 under 35 U.S.C. § 102(b).

The 35 U.S.C. § 103 Rejections

Claims 12, 17, 19, and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over Hoffman (US 5,318,514).

Applicants respectfully disagree. To further prosecution, however, claim 12 has been amended to recite the limitations of claim 13. Again, according to the Examiner, claim 13 is free of the prior art. Claims 17, 19, and 20 depend from presently amended claim 12 and, consequently, are free of the prior art.

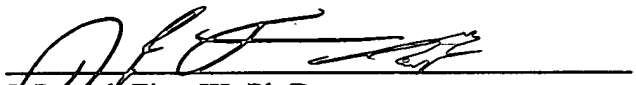
In light of the above, Applicants respectfully request withdrawal of the rejection of claims 12, 17, 19, and 20 under 35 U.S.C. § 103.

CONCLUSION

Applicants respectfully request reconsideration and allowance of claims 1, 3-12, 14-27, and 29. Enclosed is a $460 check and a Three-Month Petition for Extension of Time. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: June 27, 2002



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 2, 13, and 28 have been canceled.

Claims 1, 3, 6, 11, 12, 18, 19, 21, 26, and 29 have been amended as follows:

1. (Amended) A method for delivering a pharmaceutical composition comprising a nucleic acid to a tissue site, comprising the steps of:

providing a gene delivery device comprising a contact surface;

applying said pharmaceutical composition to said contact surface; and

contacting said contact surface to said tissue site, wherein said contacting is by moving said contact surface across said tissue site.

3. (Amended) The method according to claim 1 [2], wherein said moving across is a back and forth motion or a circular motion.

6. (Amended) The method according to claim 1, wherein said gene delivery device comprises a lumen defining [with] an opening such that fluid exiting said opening comes in contact with [in proximity to] said contact surface, and wherein said applying comprises delivering said pharmaceutical composition through said opening to [the] said contact surface.

11. (Amended) A kit, comprising:

a gene delivery device comprising a contact surface for contacting a tissue, wherein said contact surface comprises bristles; and

a pharmaceutical composition comprising a nucleic acid.

12. (Amended) A kit, comprising:

a gene delivery device comprising a graspable surface for attachment to a contact surface;

at least one contact surface for attachment to said graspable surface, wherein said contact surface comprises bristles; and;

a pharmaceutical composition comprising a dye or other detectable moiety and a nucleic acid.

18. (Amended) The kit according to claim 12, wherein said contact surface comprises a plurality of contact surfaces, each of which are differently angulated with respect to the longitudinal axis of the graspable surface [grasping element].

19. (Amended) The kit according to claim 11 or 12, wherein said gene delivery device further comprises a housing defining a lumen and having an opening such that fluid exiting said opening comes in contact [in proximity] with said contact surface, said lumen for delivering said pharmaceutical composition to a tissue site being contacted by the contact surface.

21. (Amended) A device for delivering a pharmaceutical composition to a tissue, comprising:

a housing having a first end and a second end and defining a lumen, said first end comprising an opening;

a contact surface [in communication with said first end of said lumen and] for contacting a tissue, wherein said contact surface comprises a plurality of bristles at least partially surrounding said opening.

26. (Amended) The device of claim 25 [21], wherein said syringe and conduit tubing are double-barreled.

29. (Amended) A kit comprising [the device of any claims 21-27, and further comprising] a device for delivering a pharmaceutical composition to a tissue, and a pharmaceutical composition comprising a nucleic acid, wherein said device comprises:

a housing having a first end and a second end and defining a lumen, said first end comprising an opening;

a contact surface for contacting a tissue, wherein said contact surface comprises a plurality of bristles at least partially surrounding said opening.